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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,254	07/31/2000	Stephen D. Dentel	10992740-1	3882

22879 7590 12/13/2002

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FORT COLLINS, CO 80527-2400

EXAMINER

SMITH, JEFFREY A

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 12/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/629,254

Applicant(s)

DENTEL ET AL.

Examiner

Jeffrey A. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Response to Amendment

The Declaration of Stephen D. Dentel filed on 09 October 2002 under 37 CFR 1.131 has been considered but is ineffective to overcome the Gronemeyer et al. '359 reference for at least the following reason:

Affidavits or declarations to overcome a rejection of a claim or claims must be made by the inventor or inventors of the subject matter of the rejected claim(s), a party qualified under 37 CFR 1.42, 1.43, or 1.47, or the assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor(s).

An affidavit or declaration pursuant to 37 CFR 1.131 by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection.

In the instant case, all originally filed claims (i.e. claims 1-33) stand rejected as being either anticipated by, or obvious over, the Gronemeyer et al. '359 reference. Applicant has provided no showing that less than all named inventors (i.e.

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Mr. Dentel, alone) invented the subject matter of the claims under rejection (i.e. claims 1-33).

See MPEP 715.04.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-23, 25, and 29-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Gronemeyer et al. (U.S. Patent No. 6,363,359).

Gronemeyer et al. discloses a system and method for enabling a user of a processor system to purchase product for use with the processor system (col. 1, lines 62-67).

The Gronemeyer et al. system and method comprises means including software to determine a particular type of component without input from the user, and to transmit a purchase request

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specifying the particular type of component (col. 2, lines 50-57); and a server system (col. 9, lines 9-20) configured to receive the request from the processor system, and to identify one or more vendors offering to sell products compatible for use with the component (col. 6, lines 34-47).

A single action may initiate the method which automatically inspects the processor system (col. 6, lines 52-54).

The vendors are presented and then selected either by the user (col. 6, lines 34-51) or automatically (col. 7, lines 58-64).

Communication is established between the processor system and a number of servers (col. 9, lines 1-20).

The component may be a printer and products may be printer media associated with the printer (col. 6, lines 34-47)--such as a color cartridge (col. 4, lines 54-58).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 24, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gronemeyer et al. (U.S. Patent No. 6,363,359) in view of Benjamin et al. (U.S. Patent No. 6,113,208).

Gronemeyer et al. does not disclose detecting a low-ink status. Benjamin et al., in a similar method (col. 4, lines 20-39), discloses detecting a low-ink status (col. 4, lines 20-23). It would have been obvious to one of ordinary skill in the art to have provided the method of Gronemeyer et al. to have included the step of detecting a low-ink status (as taught by Benjamin et al.) in order to have promptly initiated the purchase of the ink cartridge (col. 4, lines 35-39) via the method already disclosed by Gronemeyer et al.

Regarding claim 26 and the recitation of "the step of presenting is performed in response to the print command", the combination of Gronemeyer et al. and Benjamin et al. would function in a manner recited here, since a print command submitted while the "low-ink status" is not indicated would not result in a prompting of the user interface since the printer would not, at that time, require service including the refilling

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of printer ink. Alternatively, a printer command submitted while the "low-ink status" is indicated would result in a prompting of the user interface since the printer would, at that time, require service including the refilling of printer ink.

Response to Arguments

Applicant's arguments filed 09 October 2002 have been fully considered but they are not persuasive.

Applicant's relies upon the Declaration of Stephen D. Dentel to antedate the Gronemeyer et al. '359 reference.

The Examiner notes that such Declaration filed pursuant to 37 CFR 1.131 is not effective (as identified above) in removing the rejections based upon the '359 reference.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

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statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Smith whose telephone number is 703-308-3588. The examiner can normally be reached on M-F 6:30am-6:00pm.

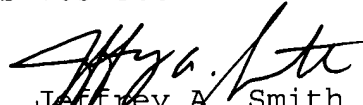
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-308-3691 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Jeffrey A. Smith
Primary Examiner
Art Unit 3625

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December 10, 2002